IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 4935/2005
(Surendra Singh Sankhla Vs. State of Rajasthan & Ors.)

Date of Order : 09/01/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Girish Joshi for the petitioner.
Mr. Rameshwar Dave, Dy. Govt. Advocate for the respondents.

BY THE COURT:-

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the respondents to release the payment of State Insurance and GPF amount which are retiral benefits of the deceased Govt. employee Miss Vimla Sankhla who died while in service on 5.1.2003.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that Miss Vimla Sankhla was an employee of the non-petitioners working on the post of Senior Teacher in Education Department and while in Govt. service, she expired on 5.1.2003. The petitioner being brother of the deceased Govt. servant was

nominated by her to receive the benefits on her death as per the nomination available on record. The non-petitioners failed to pay the amount of State Insurance as also the GPF within 60 days from the date of death of the deceased Govt. servant Vimla Sankhla and therefore, claimed interest on the delayed payment @ 24% p.a.. However, learned counsel for the petitioner submits that at the relevant time, a notification has been issued by the State Govt. being Notification No.F.15 (3) FD (Rules)/97-PLII dated June 12, 2001 amending Rule 89 of the Rajasthan Civil Services (Pension) Rules, 1996. Sub Rule (1) of newly substituted Rule 89 provides that if the payment of retiral benefits has not been authorised to the Govt. servant after 60 days from the date when its payment became due, and it is clearly established that the delay in payment was not on account of failure on the part of the Government servant to comply with the procedure laid down in this Chapter or elsewhere in these rules, interest @ 12% per annum for the period beyond 60 days after retiral benefits become due would be payable till the end of the month preceding the month in which the retiral benefits are authorised. It is also contended that the delay in making the payment was not on account of any fault on the part of the petitioner. The petitioner filed an application Annex.1 on 13.9.2003 before the concerned Head Master, Govt. Middle School, Rol (Jayal), Nagaur stating therein that his sister Miss

Vimla Sankhla, Senior Teacher expired while in service on 5.1.2003 and she had a State Insurance Police bearing No. 425259 and in her life time she has nominated the petitioner to receive the benefit of the police and therefore, requested to make the payment of State Insurance. Similarly vide Annex.2, the petitioner requested the non-petitioner that his sister Miss Vimla Sankhla expired on 5.1.2003 while in Govt. service. She had a GPF account being Account No. 300550 and has nominated the petitioner in her GPF account and therefore, requested to make payment of the amount of GPF standing to the account of the deceased Govt. servant and therefore, according to learned counsel, from 13.9.2003 the petitioner is entitled for the interest on the delayed payment after expiry of period of 60 days from the date of death of deceased Govt. servant and if not from the expiry of 60 days, at least from the date of application dated 13.9.2003.

A reply to the writ petition has been filed by the respondents stating that the petitioner failed to file the death certificate of the deceased Govt. servant Vimla Sankhla and complete the formalities and therefore, the petitioner himself is responsible for the delay in making the payment. The amount of GPF and State Insurance has been paid to the petitioner vide Demand Drafs dated 1.8.2005 and 11.8.2005 respectively. A reply has also been filed on behalf of respondent No.5 Deputy

Director, State Insurance and GPF Department stating that after examination of the claim, some objection was found with regard to the claim of the petitioner and after removal of the objections, the matter was processed and after verification, calculation and checking thereof, an authority for a sum of Rs. 2,23,412/- with interest towards GPF was issued and sent on 23.6.2005 for payment and another authority for a sum of Rs.8767/- was issued on 19.1.2006 after obtaining sanction from the competent authority. So far as claim of State Insurance payable to the petitioner on the death of his sister Govt. servant is concerned, it is stated that the same was received on 11.4.2005. After examination, some objection was found and was sent back on 19.4.2005 and after removal of the objection the claim was received back on 28.5.2005. Thereafter after verification, calculation and checking, an authority of Rs. 2,15,089/- was issued on 14.7.2005.

In the rejoinder, the petitioner has admitted that he has received the aforesaid drafts.

So far as death of Govt. servant while in service is concerned, by Annex.1 and Annex.2, it was brought to the notice of the concerned non-petitioners that she expired on 5.1.2003 and therefore, it cannot be said that the fact of death of Govt. servant was not within the knowledge of the non-petitioners. Even at any rate, not from earlier date, at least from 13.9.2003,

the respondents came to know that the Govt. servant died while in service and therefore, they were under obligation to release the retiral benefits more particularly the amount of State Insurance and GPF amount in favour of the petitioner for which the Govt. servant has nominated the present petitioner. From the reply of the respondents it appears that amount of GPF and Rs. 8767/- as interest thereon was paid to the petitioner on 1.8.2005 and amount of State Insurance was paid to the petitioner on 11.8.2005, both by demand drafts.

Keeping in view the notification issued by the State Govt. dated 12.6.2001, in my view the petitioner is entitled for the interest @ 12% p.a. on the delayed payment, not after expiry of 60 days from the death of the Govt. servant but from the date of application filed by the petitioner i.e. 13.9.2003 till the petitioner received the payment.

In the result, the writ petition is allowed to the extent that the petitioner is entitled for the interest @ 12% p.a. on the delayed payment of amount of State Insurance of the deceased Govt. servant w.e.f. 13.9.2003 to the actual date of payment. The respondents shall complete this exercise within a period of four months. Stay petitions also stand disposed of. There shall be no order as to costs.

(H.R.PANWAR),J.

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